IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 31107

STATE OF IDAHO,	)	**2009 Unpublished Opinion No. 412A**
	)	
Plaintiff-Respondent,	)	**Filed: April 16, 2009**
	)	
v.	)	**Stephen W. Kenyon, Clerk**
	)	
MICHAEL S. SOUTH,	)	**AMENDED OPINION**
	)	**THE COURT'S PRIOR OPINION**
Defendant-Appellant.	)	**DATED APRIL 3, 2009 IS**
	)	**HEREBY WITHDRAWN**
	)	
	)	**THIS IS AN UNPUBLISHED**
	)	**OPINION AND SHALL NOT**
	)	**BE CITED AS AUTHORITY**

Appeal from the District Court of the First Judicial District, State of Idaho, Bonner County. Hon. Steven C. Verby and Hon. James R. Michaud, District Judges.

Order of the district court denying motion to withdraw guilty pleas, affirmed; judgment of conviction and sentence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Justin M. Curtis, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Nicole L. Schafer, Deputy Attorney General, Boise, for respondent.

GRATTON, Judge

Michael S. South appeals from the district court's order denying his motion to withdraw his guilty pleas. South also contends that the district court abused its discretion in failing to *sua sponte* order a psychological evaluation prior to and in aid of sentencing and that the sentence imposed was excessive. We affirm.

I.

FACTS AND PROCEDURAL BACKGROUND

South was charged with felony domestic battery, Idaho Code § 18-918(3)(6), and second degree kidnapping, I.C. §§ 18-4501, 18-4503. These charges stem from an altercation involving

South, his wife Monika (the victim) and another male acquaintance, in which, after an evening of drinking, the victim was struck and, when she attempted to flee, was forcibly returned to and confined in her automobile until she was able to successfully flee. Pursuant to a plea agreement, South pled guilty to both charges, and the State dismissed charges in unrelated cases and agreed to recommend a sentence of no more than two to fifteen years but with the court to retain jurisdiction. The district court imposed a unified sentence of fifteen years, with seven years determinate for kidnapping. During the appellate process, after determining that the district court had not imposed sentence on the felony domestic battery charge, by stipulation of the parties, the matter was remanded for sentencing. The district court imposed a unified sentence of ten years with seven years determinate for felony domestic battery, to run concurrent with the sentence on the kidnapping charge. South filed a motion to withdraw his guilty plea, which was denied.

II.
ANALYSIS

A. Motion to Withdraw Guilty Plea.

South contends that the district court abused its discretion in denying his motion to withdraw his guilty plea. Whether to grant a motion to withdraw a guilty plea lies in the discretion of the district court and such discretion should be liberally applied. *State v. Freeman*, 110 Idaho 117, 121, 714 P.2d 86, 90 (Ct. App. 1986). Appellate review of the denial of a motion to withdraw a plea is limited to determining whether the district court exercised sound judicial discretion as distinguished from arbitrary action. *Id.* Also of importance is whether the motion to withdraw a plea is made before or after sentence is imposed. Idaho Criminal Rule 33(c) provides that a plea may be withdrawn after sentencing only to correct manifest injustice. The stricter standard after sentencing is justified to ensure that the accused is not encouraged to plead guilty to test the weight of potential punishment and withdraw the plea if the sentence were unexpectedly severe. *Freeman*, 110 Idaho at 121, 714 P.2d at 90. Accordingly, in cases involving a motion to withdraw a plea after sentencing, appellate review is limited to reviewing the record and determining whether the trial court abused its sound discretion in determining that no manifest injustice would occur if the defendant was prohibited from withdrawing his or her plea. *State v. Lavy*, 121 Idaho 842, 844, 828 P.2d 871, 873 (1992). It is the defendant's burden

to establish manifest injustice. *State v. Wilson*, 126 Idaho 926, 930, 894 P.2d 159, 163 (Ct. App. 1995). South's motion to withdraw his guilty plea was filed after sentencing.

Manifest injustice will be found if the plea was not taken in compliance with constitutional standards, which require that a guilty plea be entered voluntarily, knowingly, and intelligently. *State v. Huffman*, 137 Idaho 886, 887, 55 P.3d 879, 880 (Ct. App. 2002). Compliance with these standards turns upon whether: (1) the plea was voluntary in the sense that the defendant understood the nature of the charges and was not coerced; (2) the defendant knowingly and intelligently waived his rights to a jury trial, to confront adverse witnesses, and to avoid self-incrimination; and (3) the defendant understood the consequences of pleading guilty. *Id*. The validity of a plea is determined by considering all the relevant circumstances surrounding the plea as contained in the record. *State v. Hawkins*, 117 Idaho 285, 288, 787 P.2d 271, 274 (1990). South contends that the charging document did not adequately set forth the elements of the crimes charged and that his attorney failed to review the elements of the crimes with him. He claims, therefore, that he was unaware of the nature of the charges when he entered his pleas and, as such, his pleas were not voluntarily, knowingly and intelligently entered.

In order to be valid, a guilty plea must be voluntary, and voluntariness requires that the defendant understand the nature of the charges to which he or she is pleading guilty. *Boykin v. Alabama*, 395 U.S. 238, 242 (1969); *State v. Dopp*, 124 Idaho 481, 484, 861 P.2d 51, 54 (1993); *State v. Mauro*, 121 Idaho 178, 180, 824 P.2d 109, 111 (1991); *State v. Carrasco*, 117 Idaho 295, 298, 787 P.2d 281, 284 (1990). Due process does not require, however, that an explanation of every element of the offense must always be given to the defendant on the record before a valid guilty plea may be taken. *State v. Mayer*, 139 Idaho 643, 647, 84 P.3d 579, 583 (Ct. App. 2004). Regarding the necessity of description of every element of an offense, the United States Supreme Court, in *Henderson v. Morgan*, 426 U.S. 637 (1976), stated:

> There is no need in this case to decide whether notice of the true nature, or substance, of a charge always requires a description of every element of the offense; *we assume it does not.* Nevertheless, intent is such a critical element of the offense of second-degree murder that notice of that element is required.

Morgan, 426 U.S. at 647 n. 18 (emphasis added).

An adequate understanding of the offense to permit a valid guilty plea may be gained by a defendant in ways other than an explication from the court. *Mayer*, 139 Idaho at 647, 84 P.3d

at 583. One factor to be considered is whether the charge or a pleaded element of the charge is a self-explanatory legal term or so simple in meaning that it can be expected or assumed that a lay person understands it. *Id.* In *Mayer* this Court held that, when the district court referred to a charge as battery with intent to commit rape, the court sufficiently conveyed that the charge alleged an intent to sexually penetrate the victim. *Id.* at 648-49, 84 P.3d at 584-85. This Court reasoned that the common meaning of the word "rape" is sexual penetration under circumstances in which the victim does not consent. *Id.* at 648, 84 P.3d at 584.

In this case, as to the felony domestic battery charge, the information stated:

> The Defendant, Michael S. South, on or about the 15th day of August, 2003, in the County of Bonner, State of Idaho, did actually, intentionally and unlawfully commit a traumatic injury upon the person of Monika D. Jones, aka Monika D. South, against her will by striking her in the mouth, face and nose with his fists and choking her. Where the Defendant and Monika D. Jones, aka Monika D. South are household members.

South contends that the information was insufficient to convey the nature of the charge because the information lacked any allegation that the infliction of traumatic injury was done "willfully," as required in I.C. § 18-918, as it existed in 2003. The State argues that words "actually" and "intentionally," as used in the information, are substitutes for "willfully," and adequately convey that the action was done on purpose.

The district court held that "intentionally" and "striking" connote willfulness. We agree. While it may be preferable for the charging document to utilize the statutory language, the information adequately conveys the charge that the conduct alleged was willfully committed. In addition, the district court referenced our decision in *State v. Sohm*, 140 Idaho 458, 459, 95 P.3d 76, 77 (Ct. App. 2004), where we held that use of the word "striking" in the information sufficiently implied willful or intentional conduct under the domestic battery statute. While *Sohm* addressed the sufficiency of the information for jurisdictional purposes, the meaning and connotation of these words are not changed by that context.

As to the kidnapping charge, the information alleged:

> The Defendant, Michael S. South, on or about the 15th day of August, 2003, in the County of Bonner, State of Idaho, did willfully seize, confine, kidnap and/or take Monika D. Jones, Monika D. South within the State of Idaho with the intent to cause her to be kept or detained against her will and did force her into a motor vehicle to be so confined, kept or detained.

South contends that the information was insufficient to convey the nature of the charge because the information lacked any allegation that he acted "without authority of law," as required in I.C. § 18-4501. The State argues that South was aware the kidnapping charge included the unlawful nature of the confinement and that the violent nature of the evidence presented at the preliminary hearing, including the victim's multiple efforts to escape, informed him of the unlawfulness element in the charge. The State also points to the language in the information, following the charge, which states: "All of which is contrary to the form, force and effect of the statute in such cases made and provided and against the peace and dignity of the State of Idaho" as alleging lack of authority in law.

The district court also found that the allegations that the victim was kept or detained against her will and forced into the motor vehicle imply that these actions were done "without lawful authority." We agree that the information adequately conveys the charge that the conduct was alleged to be without authority in law. In *State v. Chapa*, 127 Idaho 786, 906, P.2d 636 (Ct. App. 1995), although, again, decided in the context of a challenge to the sufficiency of the information for jurisdictional purposes, this Court held:

> Here, the allegation that Chapa accomplished an act of sexual intercourse with the victim by use of force and violence carries an obvious implication that the act was done without the victim's consent and over her resistance.

Id. at 788, 906 P.2d at 638. Here, the allegation that the confinement was against the victim's will, coupled with the additional specific allegation of forcing her into the motor vehicle implies unlawful confinement.

The information was sufficient to apprise South of the nature of the charges. Based upon the standards set forth above and the record as a whole, we cannot say that the district court abused its discretion in finding that no manifest injustice would occur or in denying South's motion to withdraw his guilty pleas.

B. Pre-sentencing Psychological Evaluation.

South asserts that the district court abused its discretion in failing to *sua sponte* order a psychological evaluation in aid of sentencing. The determination whether to obtain a psychological evaluation lies within the sentencing court's discretion. I.C. § 19-2522(1); I.C.R. 32(d); *State v. Jones*, 132 Idaho 439, 442, 974 P.2d 85, 88 (Ct. App. 1999). The legal standards governing the court's decision whether to order a psychological evaluation and report are contained in I.C. § 19-2522. Pursuant to I.C. § 19-2522(1), if there is reason to believe that the

mental condition of the defendant will be a significant factor at sentencing and for good cause shown, the sentencing court must appoint a psychiatrist or licensed psychologist to examine and report upon the defendant's mental condition.

Previous decisions indicate that even if there is reason to believe the defendant's mental condition will be a significant factor at sentencing, the court nonetheless may deny a request for a new evaluation if the information contained in existing reports satisfies the requirements of I.C. § 19-2522(3). *State v. McFarland*, 125 Idaho 876, 879, 876 P.2d 158, 161 (Ct. App. 1994). Accordingly, we will uphold the district court's failure to order a psychological evaluation if the record supports a finding that there was no reason to believe a defendant's mental condition would be a significant factor at sentencing or if the information already before the court adequately meets the requirements of I.C. § 19-2522(3). *Id.* Where a defendant fails to request a psychological evaluation or object to the presentence investigation report (PSI) on the ground that an evaluation has not been performed, the defendant must demonstrate that by failing to order a psychological evaluation the sentencing court manifestly disregarded the provisions of I.C.R. 32. *Jones*, 132 Idaho at 442, 974 P.2d at 88.

No mention of any potential mental health issues was made to the court at the preliminary hearing. At the change of plea hearing, South advised the court that he was taking Zyprexa, which he indicated was for schizophrenia. When asked if he understood what was going on about him, South indicated "Yeah. For the most part. Yeah." The court then inquired further asking: "When you say 'for the most part,' do you understand my questions?" South answered in the affirmative. South acknowledged that he understood his discussions with his attorney. The court came back to the question again stating "I want to make sure," and asked South if there was anything that he was having difficulty with that would keep him from understanding what was going on around him, to which South said "no." South also advised the court that he was taking Remeron which he stated "helps my head quiet down you know so I don't hear so much voices and stuff and hallucinates (sic) back." He stated, however, that he was not having hallucinations. He indicated that he heard voices, describing them as:

> Mostly just like do something crazy you know or to hurt myself. Like I struggle to sit still in here, you know, walk over there. I just want to jump up and get naked or something and just freak out. Stuff like that.

When asked whether it was under control, South stated: "Yes. I'm okay now. I'm doing okay." There was no further discussion regarding mental health during the change of plea hearing and South answered the court's questions appropriately. The court was not advised of South's commitment to State Hospital North while incarcerated. South did not request a mental health evaluation. The court noted that an old presentence investigation report existed and ordered a new PSI.

At the sentencing hearing, South indicated that he had sufficient time to review the PSI with his attorney and that everything he saw was correct. South requested no changes to the PSI. In requesting retained jurisdiction, South's attorney addressed South's mental issues and medications. He noted that South had been committed for mental health evaluation while in custody and had received medications for some of the disorders "as the PSI lays out." He stated that South believed that with medication he would not be the person he had been and without alcohol he would not be the violent person he had been. He indicated that alcohol was involved in every incidence of violence. Finally, South's counsel told the court that South had been off of his medications "because South feels stable." He indicated, however, that South recognized the need to be on the medications, perhaps for the rest of his life, and that he would resume his medications the next day. South made no request for further mental health evaluation or objection to the PSI on the ground that an evaluation had not been ordered.

The PSI documents South's report that he grew up in a violent and abusive home in which drugs and alcohol were prevalent. He indicated having suffered several head injuries in the past which he felt affected his memory. He dropped out of high school in the ninth grade, but later received a GED. He has three daughters. The PSI reports that South had been convicted of two felonies and thirty misdemeanors. In addition, twenty-seven misdemeanor charges and seventeen felony charges had been dismissed. Most of these involved alcohol, theft or battery charges. He had previously been charged with misdemeanor domestic violence which had been dismissed. He had been convicted of two felony domestic violence charges with a false imprisonment charge dismissed.

Attached to the PSI was a prior PSI prepared in 1996. In the 1996 PSI, South reported that he had been hospitalized in the Juvenile Diagnostic Unit at State Hospital North when he was fourteen. He reported that he had attempted suicide while incarcerated by trying to slit his

wrists. He was prescribed medications for depression. He was noted to have a serious alcohol abuse problem and reported that his violent behavior was related to alcohol.

Also attached to the PSI was a domestic violence evaluation prepared in 2002 incident to domestic violence charges. South acknowledged violent behavior when using alcohol and indicated that he did not have problems when he did not drink. He reported past drug use. He reported his juvenile evaluation at State Hospital North. Test results indicated no symptoms of depression, however, South was placed in the 95th percentile of having an alcohol problem, the 99th percentile of having a violence problem, and the 93rd percentile of having a control issue. A "mini mental health status examination" resulted in the conclusion that South did not appear to have any cognitive deficits that would interfere with his ability to participate in an evaluation or treatment. He was placed in the high risk category for assaultive behavior and met the criteria for alcohol dependence and antisocial personality disorder. The reporter felt that South's prognosis was poor and that he was not a good candidate for misdemeanor probation due to his threatening behavior throughout the course of the evaluation and concerns for staff safety.

The PSI mental health comments indicated that while incarcerated, South had been committed to State Hospital North. South reported that the hospitalization stemmed from an attempt to hang himself while in jail. He reported four previous suicide attempts evidenced by scarred wrists. South claimed to have had visual and auditory hallucinations, but, at the time of the report only occasionally hearing voices through the assistance of medications. South stated that he had been diagnosed as suffering from bipolar disorder and schizophrenia and was taking Zyprexa and Remeron for schizophrenia. South indicated that alcohol was his biggest problem, that he did not get into trouble if he stayed away from alcohol and that "all his problems stem from drinking." South wrote in his PSI questionnaire: "I know I have a problem now and I want to get help. Please. Drugs & alcohol have destroyed my life and ruined me inside as a person." Although ordered on past occasions to complete substance abuse treatment the investigator found no proof South had made any efforts at treatment except a period of attending AA meetings. The presentence investigator did not recommend further psychological evaluation.

While incarcerated, South was admitted to State Hospital North on November 29, 2003 and was discharged on January 24, 2004. The State Hospital North admission interview prepared by a psychiatrist and the discharge summary also prepared by a psychiatrist were attached to the PSI.

The admission interview reflects that, prior to being transferred to State Hospital North, South had been admitted to Kootenai Medical Center after Bonner County jail staff reported that he was despondent, expressing worthless and suicidal feelings, hallucinating, talking about a voice he termed "the boss," had difficulty sleeping, felt hopeless, and feared hurting himself or others. South's past admission to the Juvenile Diagnostic Unit, past reported suicide attempts and alcohol abuse were noted. In the "mental status examination" section of the report the psychiatrist described South as cooperative and desirous of treatment, and stated:

> He described his mood as bad. Affect was anxious, angry, guilty, and dysphoric. Insight and judgment are fair. Memory is poor, patient showing difficulty with short and long-term memory. Patient did express some degree of suicidal ideation without plan. "If I can't find a way to change my life I don't think it is worth living." He did concurrently express some hope that he could receive some help. He denied violent ideation though states that he is easily irritated. Patient is a low suicide risk at present.

South reported that his loss of self-esteem and feelings of worthlessness became acutely worse after his wife told him she was scared of him and he concluded she had been unfaithful. Initial diagnosis was psychosis not otherwise specified, subject to ruling out other possibilities, and antisocial personality disorder. The report concluded that South was intelligent, highly motivated and with fair insight.

The discharge summary reported that throughout his hospital course, South's mood was mildly depressed but improved. He was generally cooperative and motivated, but interspersed with numerous brief periods of maladaptive personality traits associated with anti-social personality disorder. "Nevertheless in general, the patient denied any real intent of suicide or homicide or any real intent of self-harm or harm to others. In addition the patient showed overall good behavioral control and ultimately he was no management problem." South was given Zyprexa which was decreased and then discontinued, but then restarted because South claimed that he needed it for auditory hallucinations. However, the psychiatrist indicated that it was unclear to him whether South in fact had auditory hallucinations for an extended period of time in the absence of substance abuse. He was given Remeron to help with mood and sleep.

> By the end of his hospitalization the patient's mental status examination was as follows; "He was fully oriented to person, place and time. His appearance was well rested, well groomed and appropriately dressed. Eye contact was appropriate. His behavior was calm and cooperative. Mood was "feeling okay" with a mildly constricted affect. Thoughts were well organized. There were no hallucinations, apparent delusions or preoccupations. There were no suicidal or

> homicidal thoughts, intents or plans. Insight and judgment were fair. Sleep, appetite, energy, interest and concentration were all within normal limits. Memory for remote and recent was intact.

As to the rationale for discharge, the report stated:

> The patient's mood was stable. He was not with psychosis. His behavior was relatively stable. He was without any suicidal or homicidal thoughts, intents or plans. He could be managed in a less restrictive environment.

South was discharged with a diagnosis of (1) major depressive disorder with psychotic features in early partial remission; (2) history of extensive substance abuse and alcohol abuse; (3) anti-social personality disorder; and (4) Hepatitis C positive. He was encouraged to continue his medications, avoid all drugs and alcohol and continue out-patient treatment for substance abuse as well as personality disorder and depressed mood.

In sentencing South, the court indicated that it had taken into consideration the PSI and its attachments, specifically the records from South's commitment at State Hospital North. The court considered the factors set forth in I.C. § 19-2521 and the purposes of sentencing. Regarding mitigating factors, the court stated:

> Those mitigating factors relate to what certainly is a problem that you've been facing as it relates to mental issues and the diagnosis of major depressive disorder with psychotic features in early partial remission. The history of substance abuse and alcohol abuse, the antisocial personality disorder that's been diagnosed, as well as your Hepatitis C Positive situation. Those are some of the mitigating factors, as well as the mitigating factors outlined by your counsel and as set forth in the Presentence Investigation.

The court further noted, as a mitigating factor, South's medications and that they may have some effect on South's ability to conform his behavior.

As noted, during the appellate process, after determining that the district court had not imposed sentence for the felony domestic battery, by stipulation of the parties, the matter was remanded for sentencing. South was sentenced on the domestic battery charge on April 20, 2006, twenty-one months after his initial sentencing for kidnapping. South did not request an updated PSI or any psychological evaluation. At the sentencing hearing South's attorney advised the court that, other than incarceration, he was aware of no changes since the time of preparation of the PSI prior to the initial sentencing. South addressed the court at length and did not refer to any mental health issues.

A psychological evaluation is not required in every case where the court orders a PSI. *State v. Anderson*, 103 Idaho 622, 624, 651 P.2d 556, 558 (Ct. App. 1982). However, if a defendant's mental condition will be a significant factor at sentencing and for good cause shown, a psychological evaluation is mandatory. *State v. King*, 120 Idaho 955, 958, 821 P.2d 1010 (Ct. App. 1991). In *State v. Coonts*, 137 Idaho 150, 44 P.3d 1205, (Ct. App. 2002), this Court held:

> From the point of Coonts's arraignment, it was known to the trial court that Coonts claimed to suffer from a serious mental illness, manic depression, and that he claimed an inability to remember having discussed a plea agreement that had been recently negotiated. By the time he pleaded guilty, Coonts was receiving Lithium, a prescription medication for mental disorders. Coonts reported to the presentence investigator that he had previously been treated with Lithium, had been self-medicating with illegal drugs, had a history of suicide attempts, and had received mental health treatment intermittently since 1968. These facts were sufficient to alert the district court that Coonts's mental condition would be an important consideration at sentencing.

Id. at 152-53, 44 P.3d at 1207-08.

We conclude that the facts of this case are sufficiently similar such that, at least at the time of sentencing, the data available was sufficient to alert the district court that South's mental condition would be a significant factor at sentencing. Here, South advised the court at the change of plea hearing that he was on medication for schizophrenia and that he heard voices and experienced hallucinations. South was diagnosed with depression for which he was taking medications. He had attempted suicide on multiple occasions, evidenced by scars on his wrists. He had received in-patient mental health care at an early age and again while incarcerated on the instant charges. While it seems apparent that much of South's behavioral problems are associated with alcohol abuse, which he consistently admitted, and which is well documented in the PSI reports and his criminal history, nonetheless, the information provided to the district court was sufficient to conclude that South's mental condition would be a significant factor at sentencing.

The state contends that the PSI and its attachments meet the requirements of I.C. § 19-2522(3). In a situation where there is reason to believe that the defendant's mental condition will be a significant factor at sentencing but the court has not ordered a psychological evaluation, nonetheless, the court may rely on existing reports which adequately meet the requirements of I.C. § 19-2522(3). *State v. McFarland*, 125 Idaho 876, 879, 867 P.2d 158, 161 (Ct. App. 1994). Pursuant to I.C. § 19-2522(3) a psychological evaluation shall include: (a) a description of the

nature of the examination; (b) a diagnosis, evaluation or prognosis of the mental condition of the defendant; (c) an analysis of the degree of the defendant's illness or defect and level of functional impairment; (d) a consideration of whether treatment is available for the defendant's mental condition; (e) an analysis of the relative risks and benefits of treatment or nontreatment; (f) a consideration of the risk of danger which the defendant may create for the public if at large.

This Court and the Idaho Supreme Court have, in the absence of an ordered psychological evaluation, looked to the PSI itself to determine whether the psychological information presented adequately met the requirements of I.C. § 19-2522(3). In *State v. French*, 95 Idaho 853, 854-855, 522 P.2d 61, 62-63 (1974), the court termed the information in the PSI regarding the defendant's mental health as "sketchy and unskilled" and that the case "begs for a psychological evaluation." In *State v. Craner*, 137 Idaho, 188, 190, 45 P.3d 844, 846 (Ct. App. 2002), this Court stated that the presentence investigator's analysis of the defendant's mental condition was "minimal" and inadequate to sufficiently apprise the court of the defendant's mental status. In *State v. Sabin*, 120 Idaho 780, 784, 820 P.2d 375, 379 (Ct. App. 1991), this Court held that the psychological information in the PSI was inadequate to meet the requirements of I.C. § 19-2522(3) and that a psychological evaluation should have been ordered. In this case, the information set forth in the PSI itself is largely a summary of the documents attached, which we address below.

In *McFarland*, 125 Idaho at 881, 876 P.2d at 163, jailers called for a psychologist when they feared McFarland might commit suicide. The report of the psychologist indicated that her visit with McFarland was brief and for the limited purpose of assessing the risk of suicide. The Court determined that, while the report may have been adequate for its limited purpose, it did not provide adequate information for I.C. § 19-2522(3) purposes. As noted, in *Craner*, 137 Idaho at 190-191, 45 P.3d at 846-847, the information supplied by the presentence investigator was minimal. In addition, the PSI noted that Craner had previously been committed for mental health, but the investigator provided no information or records relative to his mental health associated with that event. During incarceration, an episode occurred involving Craner yelling, banging on the walls, saying someone was going to kill him and, thereafter, crouching in the corner and crying. After transport to the emergency room, a designated mental health examiner evaluated Craner concluding that he was psychotic and delusional. Based upon the examiner's recommendation, Craner was placed in protective custody and transported to a medical center for

evaluation. While the PSI indicated that the medical records would be provided upon receipt, neither the medical records nor the evaluation of the examiner were part of the record prior to sentencing. For these reasons, this Court held that the PSI failed to provide the district court with adequate information concerning mental health at the time of sentencing.

In *King*, 120 Idaho at 958, 821 P.2d at 1013, a psychological evaluation was ordered for the purpose of determining whether King could aid in his own defense, I.C. §§18-210, 211(5), which led to King being committed for evaluation and treatment. At sentencing the court relied upon the psychological evaluation instead of ordering a second evaluation specific for the purpose of sentencing. The PSI indicated that the reports of the treating psychologists from King's commitment would be attached when received, but were not included in the record prior to sentencing. This Court noted that, despite the omission of records from King's commitment, the district court had the benefit of the earlier psychological evaluation, a report from the jail psychologist and the presentence investigator's recommendation, and held that the district court acted within its discretionary powers by sentencing King without further psychological information. *Id*. at 960, 821 P.2d at 1015.

In this case, the PSI did include as an attachment the State Hospital North admission interview as well as the discharge summary each prepared by a psychiatrist. The evaluations were not generated as a result of a brief visit for a limited purpose. While not prepared specifically for sentencing purposes, the reports summarized nearly sixty days of evaluation and treatment of South. We conclude that the reports provided adequate information for I.C. § 19-2522(3) purposes. The discharge summary contained a description of the course of hospital treatment and evaluation. A specific diagnosis was presented in both reports. The discharge summary set forth information regarding South's subjective complaints, objective observations made during evaluation and treatment, and the psychiatrist's view of the degree to which South actually experienced symptoms. South's intelligence and insight are noted in the admission interview. The discharge summary contained the psychiatrist's opinions as to South's demeanor and ability to conform his conduct. A specific treatment regimen, through medication, abstinence from illicit drugs and alcohol and out-patient treatment for substance abuse, personality disorder and depression was set out in the discharge summary. The psychiatrist's analysis of the risks of non-treatment and benefits of treatment are noted. As explained at sentencing by his counsel, South was aware of the long-term need for treatment and medications. As to a consideration of the risk of danger

which South might create for the public if at large, the discharge summary stated, "Nevertheless, in general, the patient denied any real intent of suicide or homicide or any real intent of self-harm or harm to others. In addition the patient showed overall good behavioral control and ultimately he was no management problem." In addition, the report noted that "he could be managed in a less restrictive environment." Through the reports, the district court possessed adequate information concerning South's mental condition at the time of sentencing.

The PSI also attached the PSI prepared in 1996 and, together, they provided an adequate social, educational, and economic history of South. The domestic violence evaluation prepared in 2002 provided the court with additional information regarding South's cognitive abilities, risk category for assaultive behavior and assessment for alcohol dependence and antisocial personality disorder. The district court was provided with sufficient information regarding South upon which to base an appropriate sentence.

C. Excessive Sentence.

South contends that his sentence was excessive. Sentencing is a matter for the trial court's discretion. Both our standard of review and the factors to be considered in evaluating the reasonableness of the sentence are well established and need not be repeated here. *See State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007). Applying these standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion.

III.
CONCLUSION

The district court did not abuse its discretion in denying South's motion to withdraw his guilty pleas. Although failing to order a psychological evaluation, the district court did not manifestly disregard the provisions of I.C.R. 32 as the information presented by the PSI and its attachments adequately met the requirements of I.C. § 19-2522(3). Accordingly, the district court's order denying South's motion to withdraw his guilty pleas and the judgment of conviction and sentence are affirmed.

Chief Judge LANSING and Judge PERRY, **CONCUR.**